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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,776	10/08/2003	William D. Folsom	FOLS-05	6676

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EXAMINER	
DUNWOODY, AARON M	
ART UNIT	**PAPER NUMBER**
3679	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/681,776	FOLSOM, WILLIAM D.	
	Examiner	Art Unit	
	Aaron M Dunwoody	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings were received on 11/12/2004. These drawings are approved.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US patent 4687232, Zimmerman.

In regards to claim 3, Zimmerman discloses a unitary pipe bushing (38) for use in joining a first length of pipe to a second length of pipe, the first length of pipe having an outer diameter, a wall thickness, and a coupling end, and the second length of pipe (10) having an inner diameter, a wall thickness, and a coupling end,

the pipe bushing comprising an annular body having a top end and a bottom end, the top end having an outwardly-projecting round flange with a lateral thickness substantially equal to the wall thickness of the second length of pipe, and the bottom end having an inwardly-projecting lip with a lateral thickness substantially equal to the wall thickness of the first length of pipe, the body of the pipe bushing having an outer diameter nominally smaller than the inner diameter of the second length of pipe and further having a bore having a diameter nominally larger than the outer diameter of the second length of pipe.

In regards to claim 4, Zimmerman discloses the pipe bushing and the lengths of pipe being made from polyvinyl chloride (PVC).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zimmerman.

In regards to claim 5, Zimmerman discloses the claimed invention except for a method of reducing drain waste and vent pipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a method of reducing drain waste and vent pipes, since under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986)

In regards to claim 6, Zimmerman discloses the pipe bushing and the lengths of pipe being made from polyvinyl chloride.

Response to Arguments

Applicant's arguments filed 11/12/2004 have been fully considered but they are not persuasive. The Applicant argues:

> ... applicant has been unable to find where Zimmerman discloses that the pipe bushing 38 is made from polyvinyl chloride (PVC); instead the patent discloses that the slip joint 10 concerns itself with PVC.

The Examiner disagrees. Claim 4 of Zimmerman recites, "said housing, bushing and piston are all composed of polyvinyl chloride." Therefore, Zimmerman meets the claim limitation.

The Applicant argues:

> As noted previously, Zimmerman does not disclose an a bushing having an outwardly projecting round flange with a lateral thickness substantially equal to the wall thickness of the second length of pipe. Further, Zimmerman does not disclose a bushing having an inwardly-projecting lip with a lateral thickness substantially equal to the wall thickness of the first length of pipe. Finally, Zimmerman does not disclose a bushing with a bore having a diameter nominally larger than the outer diameter of the first length of pipe...

The Examiner disagrees. "Substantial" does not connote "small" or "meager" it includes high range of "principally" or "entirely"; in view of evidence in the file wrapper, court is not willing to extend it below 49%. – E.W. Bliss Co. v. Cold Metal Process Co. (DC Nohio) 122 USPQ 238. Therefore, Zimmerman does disclose a bushing having an outwardly projecting round flange with a lateral thickness substantially equal to the wall thickness of the second length of pipe; and Zimmerman does disclose a bushing having

an inwardly-projecting lip with a lateral thickness substantially equal to the wall thickness of the first length of pipe.

Further, Merriam-Webster's Collegiate Dictionary, 10th ed., defines nominal as:

> [1]**nominal**: 3 b: of being, or relating to a designated or theoretical size that may vary from actual.

Therefore, Zimmerman does disclose a bushing with a bore having a diameter nominally larger than the outer diameter of the first length of pipe.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aaron M Dunwoody
Examiner
Art Unit 3679

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